

FISH and WILDLIFE COMMISSION AGENDA ITEM COVER SHEET

Meeting Date: November 13, 2014

Agenda Item: Silver Lake Recreational Use Petition

Division: Enforcement **Action Needed:** Deny petition or initial rulemaking

Time Needed on Agenda for this Presentation: 60 minutes

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Background: On October 2, 2014, the Commission secretary received a petition from Butte-Silver Bow County requesting changes to the recreational use on Silver Lake in Deer Lodge County. Silver Lake is a storage reservoir and water stored in Silver Lake is released to Warm Springs Creek for in-stream flow and industrial purposes. A number of intake and outlet structures for the reservoir are located on the east end of Silver Lake. The petitioners claim the presence of these structures and the potential for rapidly changing water levels throughout the reservoir pose a safety hazard for watercraft operating on the lake, particularly on the east end. The petition requests the following recreational restrictions: all watercraft propelled by machinery of over 70 horsepower are prohibited from operating on Silver Lake; all vessels towing a person water skiing, tubing or any similar activity are prohibited on Silver Lake; personal watercraft as defined in 23-2-502, Montana Codes Annotated (MCA) are prohibited; and the waters located 1400 feet above the east dam are closed to all boating, sailing, floating and swimming.

Public Involvement Process & Results: If the Commission initiates rulemaking, opportunity for public comment will be available.

Alternatives and Analysis: The Commission is required to either deny the petition or initiate rulemaking. If the Commission denies the petition, the recreational use regulations on Silver Lake will remain as they are currently. If the Commission initiates rulemaking, the process outlined in MAPA will be adhered to including a public comment period.

Agency Recommendation & Rationale: The Department recommends the Commission deny the petition. The proposed restrictions are broader than necessary to address any of the concerns stated by the petitioner. There is no public boat launch on Silver Lake and all access to boating requires permission from a property owner. There is minimal boat activity and very little use by personal watercraft or waterskiing. MCA 87-1-303, requires recreational rules be adopted in the interest of public health, public safety, public welfare, and protection of property and public resources. The petition claims a public safety issue around the intake structures. The Department is not aware of any accidents or incidents involving the structures on Silver Lake. The petition also claims bull trout gather at the inlet structure during staging and the proposed restriction will protect these staging areas. Currently, there is a fishing closure from July 1st through September 30th in the fishing regulations to address the concern for the bull trout staging making any further restrictions to address bull trout unwarranted. Also, there is a 200 foot from the shore no wake zone from the shore established ARM 12.11.115.

Proposed Motion: I move the Commission deny the petition to change the recreational use on Silver Lake submitted by Butte-Silver Bow County.